

CHAPTER 30 CABLE ACCESS TO RESIDENTIAL RENTAL PROPERTY

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3000 GENERAL PROVISIONS

- 3000.1 This chapter shall establish procedures to govern access to residential rental property by a cable television operator to install cable television facilities and equipment.
- 3000.2 Subject to the provisions of this chapter, a cable television operator shall be obligated to provide a cable television service to any tenant within the operator's franchise territory requesting it.
- 3000.3 Owners of residential rental property occupied by tenants shall not interfere with the installation of cable television facilities on his or her property except to the extent permitted in §45a of the Cable Television Communications Act of 1981, D.C. Code §43-1844.1 (1981 Ed.).
- 3000.4 No cable television operator may enter into any agreement with the owners, lessees, or persons controlling or managing buildings served by cable television, or do or permit any act that would have the effect of diminishing or interfering with existing rights of any tenant or occupant of the building to use or avail himself or herself of master or individual antenna equipment.
- 3000.5 Except as provided in §3006 of this chapter, the owner of residential rental property shall not demand or accept payment from any cable television operator in exchange for permitting cable television service or facilities on or within his or her property or premises.
- 3000.6 All documents to be filed with the Office of Cable Television pursuant to this chapter shall be filed between the hours of 8:30 a.m. and 4:00 p.m. on or before the due date. No document shall be received for filing after that time.
- 3000.7 The Office shall be open each business day except legal holidays.

3000.8 All documents shall be considered filed for purposes of this chapter when received by the Office during business hours set forth in this section.

3000.9 Unless otherwise required by the Director, there shall be filed with the Office an original and two (2) copies of all documents submitted for filing.

AUTHORITY: Unless otherwise noted, the authority for this chapter is §45(a) of the Cable Television Communications Act of 1981, D.C. Law 4-142; added by §2(pp) of the Cable Television Communications Act of 1981 Clarification Amendment Act of 1983, D.C. Law 5-36, D.C. Code §43-1844.1 (1981 Ed.).

SOURCE: Final Rulemaking published at 35 DCR 7175 (September 30, 1988).

3001 TIME

3001.1 In computing any period of time specified in this chapter, calendar days shall be counted.

3001.2 In computing any period of time specified in this chapter, the day of the act, event, or default from which the designated period of time begins to run shall not be included.

3001.3 The last day of the period shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday.

3001.4 Whenever the rules in this chapter direct or permit an act within a prescribed period after service of a notice or other paper and the notice or paper is served by mail, three (3) days shall be added to the prescribed period.

SOURCE: Final Rulemaking published at 35 DCR 7175, 7176 (September 30, 1988).

3002 PROOF OF SERVICE

3002.1 Proof of service, stating the name and address of the person on whom service is made and the manner and date of service, may be shown by any of the following methods:

(a) Written acknowledgement by the person served or by his or her representative;

(b) The certificate of the person performing service or that person's representative or attorney; or

(c) A return receipt if service is made by registered or certified mail.

3002.2 Documents required or permitted to be filed under this chapter shall be served on the same date the document is filed with the Office.

SOURCE: Final Rulemaking published at 35 DCR 7175, 7177 (September 30, 1988).

3003 NOTICE OF INSTALLATION OF CABLE FACILITIES

3003.1 Before installing cable television facilities or equipment on residential rental property, the cable operator shall serve written notice to the owner, or authorized agent of the property, of the cable operator's intent to install cable television facilities and equipment. The notice shall be served by certified mail fifteen (15) days before the scheduled installation date.

3003.2 The following information shall be contained in the notice:

- (a) The name and address of the cable television operator;
- (b) The name and address of the owner or authorized agent of the property;
- (c) The approximate date of the installation;
- (d) A description of the proposed method of installation of sufficient detail to enable the owner to respond as required under §3004.1;
- (e) A copy of D.C. Code §43-1844.1 (1981 Ed.);
- (f) A citation to this chapter;
- (g) A statement that the cable television operator, after notice to the owner or authorized agent of the property, has the right to enter the property to make surveys or conduct other investigations to prepare for installation and that the cable television operator shall be liable to the owner for any damages caused by the entry;
- (h) A statement that installation of cable television facilities shall conform to those reasonable conditions and architectural controls set forth in writing by the owner as being necessary to protect the safety, functioning, appearance of the premises, and the convenience and well-being of other tenants;
- (i) A statement that the cable television operator or the tenant or a combination thereof shall bear the cost of the installation, operation or removal of the facilities;
- (j) A statement that the cable television operator shall, upon request, indemnify the owner for any damage caused in connection with the installation;
- (k) A statement that, in compensation for the access authorized under D.C. Code §43-1844.1 (1981 Ed.), the amount of one dollar (\$1) shall be tendered when an access agreement is signed or, if necessary, Office approval to proceed with the installation of cable facilities is obtained;
- (l) A statement that the owner may waive compensation for permitting the installation of cable television facilities;

- (m) A statement that the owner may, within sixty (60) days of service of this notice that installation has been completed, apply for compensation in excess of one dollar (\$1); and
 - (n) A statement that a response from the owner or authorized agent of the property shall be served on the cable television operator within fifteen (15) days and that failure to respond may result in the installation of cable television facilities pursuant to the approval of the Office.
- 3003.3 The cable television operator shall determine the identity of the owner or authorized agent of the property in question.
- 3003.4 At any time after delivery of the notice specified in §3003.2, an owner or authorized agent of the property may waive compensation for permitting the installation of cable television facilities.
- 3003.5 Every cable television operator that installs cable television services or facilities pursuant to this chapter shall serve upon the owner or authorized agent of the property notice that installation has been completed within five (5) days of the initiation of cable service to a tenant.

SOURCE: Final Rulemaking published at 35 DCR 7175, 7177 (September 30, 1988).

3004 OWNER'S RESPONSE TO NOTICE OF INTENT TO INSTALL CABLE FACILITIES

- 3004.1 Within fifteen (15) days after serving the notice required by §3003, the owner or authorized agent of the property shall serve, by hand, or certified mail, on the cable television operator a written statement, on a form prepared by the cable operator, agreeing or disagreeing with the plan for installation described in the notice.
- 3004.2 If, within forty-five (45) days after serving the notice required by §3003, the cable television operator and the owner are unable to reach an agreement on the terms and conditions for the installation of cable facilities and equipment, the cable television operator may apply to the Office for approval to install its cable television facilities. The application shall contain the following information:
- (a) A copy of the notice of intent to install sent to the owner or authorized agent of the property;
 - (b) A specific description of the proposed method of installation;
 - (c) A summary of the conditions being required for the installation of cable facilities; and
 - (d) A brief description of the areas of dispute with the owner regarding the installation of cable facilities.

- 3004.3 The cable operator shall serve, by hand or certified mail, a copy of the application on the owner or authorized agent of the property. Service of the application shall include a written statement informing the owner or his or her agent of the owner's obligation to file, within fifteen (15) days of service of the application, a response with the Office.
- 3004.4 Any response filed by the owner shall contain a statement of the manner in which the conditions required by the owner regarding the installation of cable facilities are necessary to protect the safety, functioning and appearance of the property and the convenience and well-being of the tenants.
- 3004.5 After receiving the cable television operator's application and the owner's response, the Director shall attempt to mediate the dispute. The Director may require the submission of additional information by either the cable television operator or the owner.
- 3004.6 If mediation efforts fail, the Director shall, based upon the information submitted, approve or disapprove the application, schedule a hearing, or direct such other procedures to facilitate the installation of cable television facilities and equipment consistent with D.C. Code §43-1844.1 (1981 Ed.).
- 3004.7 Installation of cable facilities and equipment shall not be permitted until all issues related to reasonable conditions are either agreed upon between the owner and the cable operator or installation is approved by the Office in accord with §§3004.5 - 3004.6.
- 3004.8 All executed access agreements shall be filed with the Office.

SOURCE: Final Rulemaking published at 35 DCR 7175, 7179 (September 30, 1988).

3005 FAILURE OF OWNER TO RESPOND TO NOTICE

- 3005.1 If the owner fails to respond within the fifteen (15) days required by §3004.1, the cable television operator shall apply to the Office for approval to install cable television facilities. The application shall be verified by an authorized officer of the cable television company and shall contain the following:
- (a) Proof of service on the owner or authorized agent of a notice of intent to install cable television facilities;
 - (b) The location of the property;
 - (c) A description of the facilities and equipment to be installed on the property, including the type and method of installation and the anticipated costs;
 - (d) The name of the individual or officer responsible for the actual installation;
 - (e) A statement that the cable television operator shall indemnify the owner for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the owner;

- (f) A statement that the installation shall be conducted without prejudice to the rights of the owner to apply for compensation in accord with §3006;
- (g) A summary of efforts by the cable television operator to effect entry on the property for the installation; and
- (h) A statement that the owner or authorized agent of the property shall file a response to the application within twenty (20) days of the date it is served and that failure to respond may result in approval by the Office of the cable television operator's request to install cable television facilities on the premises. The owner's response shall be served on the cable operator by hand-delivery or certified mail.

3005.2 If the owner fails to respond within the time required by paragraph (h) of §3005.1, the Office may approve the application of the cable television operator which shall constitute a determination that the applicant has complied with the requirements of this chapter.

3005.3 After reviewing the application and response, if any, provided for in this section, the Office may approve or disapprove the application, schedule a hearing on any material factual issues presented in those documents or direct other procedures, consistent with D.C. Code §43-1844.1 (1981 Ed.), to facilitate the installation of cable television facilities.

SOURCE: Final Rulemaking published at 35 DCR 7175, 7180 (September 30, 1988).

3006 APPLICATION BY OWNER FOR COMPENSATION

3006.1 If an owner believes he or she is entitled to compensation in excess of one dollar (\$1), the owner may file an application with the Office requesting a determination of the compensation.

3006.2 Applications for compensation shall be filed within sixty (60) days of receiving notice, under §3003, from the cable television operator of intent to install cable television facilities or notice of the completion of the installation of cable television facilities. There shall be no extension of the time period prescribed in this section.

3006.3 Filing an application for compensation shall not delay or impair the right of the cable television operator to construct, install, maintain, or repair cable television facilities.

3006.4 An application for compensation shall set forth specific facts relied on by the owner to justify compensation in excess of one dollar (\$1). The application shall include, but need not be limited to, the following information:

- (a) A description of the location and the amount of space to be occupied by the cable installation;

- (b) The value of the property before the installation of cable facilities and equipment, and the value of the property after the installation of cable facilities;
 - (c) The criteria, data, or methods used to determine the values described in paragraph (b); and
 - (d) The amount claimed by the owner as compensation for the taking of property occasioned by the installation of cable television facilities.
- 3006.5 The application for compensation shall be served on the cable television operator by hand-delivery or certified mail. Proof of service shall be filed with the Office.
- 3006.6 The cable television operator shall file with the Office a response to the application within twenty-one (21) days after the date the application is served.
- 3006.7 The Office may, upon good cause shown, permit the filing of supplemental information at any time and may, on its own initiative, direct the filing of additional information before making a determination on the issue of compensation.
- 3006.8 After receiving the information required under this section, the Office shall determine whether the information supplied establishes a *prima facie* case that compensation may exceed one dollar (\$1). The determination of the Office will be mailed to both the cable television operator and owner or authorized agent of the property.
- 3006.9 Within twenty (20) days of the date of the determination of the Office, the owner or the cable operator may file a request for a hearing. The hearing shall be held in accordance with the procedures established in D.C. Code §1-1509 (1981 Ed.).
- 3006.10 The Office may, following a request for a hearing require the cable television operator to make advance payment or post security in the form and amount as the Office deems necessary to ensure the adequacy of compensation.
- 3006.11 If, at any time after the filing of an application for compensation, the cable operator and the owner agree on the amount of compensation to be paid for installing cable television facilities, the Office shall not be required to make an assessment or conduct a hearing. The agreement along with the criteria, data, or methods used to determine the amount of compensation, shall be submitted to the Office for approval.

SOURCE: Final Rulemaking published at 35 DCR 7175, 7182 (September 30, 1988).

3099 DEFINITIONS

- 3099.1 When used in this chapter, the following terms and phrases shall have the meaning ascribed:

Cable Television Operator - a cable television company authorized to construct and operate a cable television system along the public ways in the District of Columbia or within specified areas in the District of Columbia.

Director - the Executive Director of the Office of Cable Television established under D.C. Code §43-1805 (1990 Repl. Vol.).

Legal Holidays - those public holidays listed in D.C. Code §§1-613.2(a) and (c) (1981 Ed.).

Office - the Office of Cable Television established under D.C. Code §43-1805 (1981 Ed.).

Owner - the legal owner of any dwelling, a condominium association, a housing cooperative or the agent authorized to manage, administer or control one or more single or multiple residential dwellings irrespective of the form of property ownership.

Party - an applicant, petitioner, or a respondent seeking or responding to a request for relief from the Office of Cable Television pursuant to this chapter.

Person - an individual, firm, partnership, corporation, or association.

SOURCE: Final Rulemaking published at 35 DCR 7175, 7183 (September 30, 1988).